

**ASSESSMENT APPEALS BOARD MINUTES  
COUNTY OF SAN LUIS OBISPO  
STATE OF CALIFORNIA**

Friday, April 16, 2004

The Assessment Appeal Board of the County of San Luis Obispo, State of California, met in regular session at 9:00 o'clock A.M., in the Board of Supervisors Chambers, County Government Center, San Luis Obispo, California.

**PRESENT: Appeals Board Members** Mr. Tom Baron, Mr. Kem Weber, and Chairperson Jenele Buttery

**ABSENT: Appeals Board Member** None

Mr. Wyatt Cash, Deputy County Counsel, is present and represents the Assessment Appeals Board.

Mr. Tom Bordonaro, County Assessor, and Mr. Rod Hallin, Mr. Cory Powell, Mr. Rick Walsh, Mr. John Tylicki, Ms. Charron Sparks and Ms. Linda Trahey, Deputy Assessors, are present and sworn.

- (1) This is the time set for members of the public wishing to address the Board on items not set on the Agenda.

**Chairperson Buttery:** opens the floor to the public without response.

- (2) **Application No. 2003-7, APN 076,081,020, Angelo Morabito/David Pereira, is presented to have the values read into the record by the Assessor.**

**Ms. Trahey:** reads the values as follows: **for the 2001/2002 Regular Roll, date of value January 1, 2001, the full value of the land covered by the open space easement is fixed at \$300,000, the full value of the home site not covered by the easement is \$375,000; the full value of improvements are fixed at \$300,000, for a total value of \$975,000; for the 2002/2003 Regular Roll, date of value January 1, 2002, the full indexed value of the land covered by the open space easement is \$306,000, the full indexed value of the home site not covered by the easement is \$382,500; the full indexed value of improvements at \$306,000, for a total value of \$994,500; for the 2003/2004 Regular Roll, date of value January 1, 2003, the full indexed value of the land covered by the open space easement is \$312,120, the full value of the home site not covered by the easement is \$390,150; the full indexed value of improvements are \$312,120, for a total value of \$1,014,390.**

**Mr. Pereira:** is present and previously sworn and presents **Applicant's Exhibit #1 - Letter of Formal Request for Findings of Fact** and states that it was unclear if he should request simple or complex findings which delayed his payment for findings.

**Mr. Cash:** reads the Board's Local Rules requiring the fee for Findings of Fact to be paid at the conclusion of the hearing.

**Thereafter, on motion of Mr. Baron, seconded by Mr. Weber and unanimously carried, the request for Findings of Fact to be prepared is denied for failure to pay in a timely manner.**

- (3) **Application No. 2003-51, APN 023,261,011, Joseph & Janet Kourakis, is presented.**

**Mr. Joseph Kourakis is present and sworn.**

**Mr. Tylicki:** describes the property.

**Mr. Kourakis:** presents his case, indicating at the time of purchase he was under the impression that he could build on the subject property; addresses the water issues in Cambria; discusses comparable sales.

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**Ms. Trahey:** questions the dates of value for Mr. Kourakis' comparables and suggests meeting with Mr. Tylicki to review the Assessor's comparables.

**Mr. Weber:** suggests that Mr. Kourakis has a good start but needs more information to present to the Board.

**Thereafter, on motion of Mr. Weber, seconded by Mr. Baron and unanimously carried, the Board continues Application No. 2003-51 to a date to be set by the Clerk.**

- (4) **Application No. 2003-64, APN 083,331,029, Cori B. Johnson,** is presented.

The Applicant is not present.

The Clerk informs the Board she received a call this morning prior to the hearing from Mr. Johnson requesting a continuance which was granted.

**Ms. Trahey:** the Assessor's office received a call from the Applicant also and have no objection to the continuance.

**Thereafter, on motion of Mr. Baron, seconded by Mr. Weber and unanimously carried, Application No. 2003-64, Cori B. Johnson is continued to a date to be set by the Clerk.**

- (5) **Application No. 2003-57, APN 820,001,521, 820,001,522 and 820,001,593; North American Jet Charter Inc.,** is presented.

**MS. BUTTERY INDICATES SHE HAS A CONFLICT OF INTEREST AS HER HUSBAND'S LAW FIRM HAS BUSINESS DEALING WITH THE APPLICANT AND DISQUALIFIES HERSELF ON THIS ITEM.**

**Ms. Claire Simoulis:** Agent for North American Jet Charter is present and sworn.

Both the Applicant and Assessor agree that the hearing may proceed with only a two Board members hearing the appeal and that the two issues before the Board with respect to the value of the aircraft and the penalty will be heard as one hearing.

**Ms. Simoulis:** states the Applicant is an air charter 135 operator (on-demand air charter); addresses the major setbacks to the industry after September 11<sup>th</sup> which effected the aircraft's value and air transportation markets; three components of the Assessor's value from her meetings with Mr. Walsh are: the value of the aircraft; the sales tax portion added to the value; and the 10% penalty for late filing of the Aircraft Survey Record.

**Mr. Baron:** states his is an acquaintance of Mr. Weyrich (President of North American Jet Charter Inc.) and asks if either party objects to his hearing the appeal, neither party objects.

**Ms. Simoulis:** presents **Applicant's Exhibit #1 - Recap of the Assessor's value from her meeting with Mr. Walsh on July 31, 2003,** and according to the State Board of Equalization because they operate under the FAA Part 135, Common Carrier, they were granted an exemption from sales and use tax.

**Mr. Hallin:** states there is no sales tax enrolled in the Assessor's values and the Assessor's appraisal will support that fact.

**Mr. Walsh:** states that during their meeting on July 31, 2003, he mistakenly added to Mr. Polk's appraisal the late filing penalty and sales tax, which brought the value for the aircrafts above the current enrolled value which he believed would show the Assessor's enrolled values were reasonable.

**Mr. Weber:** asks if the issue of sales tax is then a mute point, all parties agree.

**Mr. James Polk:** Appraiser for the Applicant, is present and sworn.

**Mr. Hallin:** discusses the Assessor's office has not seen Mr. Polk's revised appraisal, they request 30 minutes to review Mr. Polk's appraisal.

The Board recesses on this matter for 30 minutes to allow the Assessor's office time to review Mr. Polk's Appraisal.

**MS. BUTTERY RETURNS AS CHAIRPERSON.**

- (6) **Application Nos. 2002-96, APN 044,274,008 and 2003-36, APN 044,274,008; Mark R. Schrantz,** is presented.

The Applicant is not present.

**Thereafter, on motion of Mr. Weber, seconded by Mr. Baron and unanimously carried, the Board denies Application Nos. 2002-96 and 2003-36, Mark R. Schrantz for non-appearance.**

- (7) **Minutes of the March 12, 2004 Assessment Appeals Board Hearing,** are presented.

**Thereafter, on motion of Mr. Baron, seconded by Ms. Buttery, with Mr. Weber abstaining, motion carries and the minutes of the March 12, 2004 Appeals Board Hearing are approved as presented and the Chairperson is instructed to sign the same.**

- (8) **Approval of Findings of Fact for Application Nos. 2001-37 and 2002-34, Sierra Vista Hospital, Inc.,** is presented.

**Mr. Cash:** states that the Assessor and Applicant are still negotiating the language for the Findings of Fact and asking for more time to finalize these Findings.

**Thereafter, on motion of Mr. Weber, seconded by Mr. Baron and unanimously carried and Findings of Fact for Application Nos. 2001-37 and 2002-34, Sierra Vista Hospital, Inc. are continued to July 19, 2004.**

- (9) **Approval of Waiver of Time for Application Nos. 2002-83, APN 066,331,035, Duke Energy Morro Bay, LLC, and 2002-001, APN 005,052,002, 005,171,030 and 005,171,033; and 2002-002, APN 005,171,031, Harker Wade,** are presented.

The Applicant is not present.

**Thereafter, on motion of Mr. Weber, seconded by Mr. Baron and unanimously carried, the Waiver of Time for Application Nos. 2002-83, Duke Energy Morro Bay, LLC, and 2002-001 and 2002-002, Harker Wade, are approved and the Chairperson is instructed to sign the same.**

**MS. BUTTERY STEPS DOWN AND THE BOARD RESUMES HEARING APPLICATION NO. 2003-57, NORTH AMERICAN JET CHARTER.**

- (10) **Mr. Polk:** presents and discusses **Applicant's Exhibit #2 - Aircraft Appraisal Report; Applicant's Exhibit #3 - General Aviation Manufacturer's Association News Article; Applicant's Exhibit #4 - Aircraft Data for 1997 Learjet 60 60; Applicant's Exhibit #5 - 1977 Learjet 35 & 36 & 36A;** provides information on his background; addresses the rapid changes to the industry following September 11th.

For clarity purposes, Applicant's Exhibit #2 is renumbered as **Applicant's Exhibit #2A - Aircraft Appraisal Report for the 2000 Lear 60 Business Jet, N601GG, Serial #60-192; and Aircraft Appraisal Report for the 1997 Lear 60 Business Jet, N600GG, Serial #60-115 is renumbered as Applicant's Exhibit #2B; Aircraft Appraisal Report for the 1977 Lear 36 Business Jet, N700GG, Serial #36-038 is renumbered as Applicant's Exhibit #2C.**

**Mr. Polk:** further discusses his appraisals, with a date of value as of January 1, 2003 for all the aircrafts, his opinion of value for APN 820,001,593, the N601GG, is \$6,750,000; his opinion of value for APN 820,001,522, the N600GG, is \$5,710,500; his opinion of value for APN 820,001,521, the N700GG, is \$940,500.

**Mr. Walsh:** presents the Assessor's case, **Assessor's Exhibit #A - Appraisal**, discusses Revenue and Taxation Code Section 5364.

**Mr. Hallin:** discusses Revenue and Taxation Code Section 5367 regarding the 10% penalty for late filing of Aircraft Survey Record; indicates the Applicant had until February 15, 2003 to file; Applicant is aware of the yearly requirement to file, haven't missed filing in the past; the penalty is only added to the year in which the untimely filing occurred.

**Mr. Walsh:** states that the State Board of Equalization requires the Assessor to use Aircraft Bluebook Price Digest Winter Edition only when valuing aircraft; states the Assessor's opinion of value for: N600GG is \$6,299,541 and with the penalty enrolled the value is \$6,929,295; for N601GG the value is \$7,512,120 and with the penalty enrolled the value is \$8,263,332; and for N700GG the value is \$1,469,267 and with the penalty enrolled the value is \$1,616,193.

**Mr. Polk:** wants the Board to consider the Winter Edition advisory and use the Spring Edition as he has done in his appraisal.

**Thereafter, on motion of Mr. Weber, seconded by Mr. Baron, with Ms. Buttery being disqualified the motion carries and on Application No. 2003-57, date of value January 1, 2003, for APN 820,001,593, the full value of the Personal Property is fixed at \$7,000,000; for APN 820,001,522 the full value of Personal Property is fixed at \$6,000,000; and for APN 820,001,521 the full value of Personal Property is fixed at \$940,500.**

The Applicant requests and pays for complex Findings of Fact.

**Mr. Hallin:** presents **Assessor's Exhibit #B - Penalty**; discusses Revenue and Taxation Code Section 5365 which specifies if the Aircraft Survey Record is not filed timely, the Assessor shall apply a 10% penalty to the value of the aircraft; the Applicant is knowledgeable about the procedure and has filed timely in the past; the Assessor's office requests that the penalty be held.

**Ms. Simoulis:** presents **Applicant's Exhibit #6 - Notification of Aircraft Assessment**, and states she was under the impression that the penalty was waived, there was no asterisk on their statement and asks the Board to remove the penalty.

**Thereafter, on motion of Mr. Weber, seconded by Mr. Baron, with Ms. Buttery being disqualified, motion carries and the request for the penalty to be waived is denied and the Clerk is to report the values to the Auditor with the 10% penalty included.**

**MS. BUTTERY RETURNS AS CHAIRPERSON.**

- (9) **Application No. 2002-60, APN 940,001,105; 940,001,106; 940,001,107; 940,001,108; 940,001,109; 940,001,110; 940,001,111; and Application No. 2003-60, APN 940,001,103; 940,001,104; 940,001,105; 940,001,106; 940,001,107; 940,001,108; 940,001,109; 940,001,110; 940,001,111, Charter Communications Properties, LLC, are presented.**

**Mr. John Corum:** Deloitte & Touche, LLP representing Charter Communications Properties, LLC is present and sworn.

**Ms. Trahey:** asks to address all applications at once, with Mr. Corum agreeing.

**Ms. Sparks:** describes the property.

**Mr. Corum:** presents **Applicant's Exhibit #A - Valuation of Franchise Possessory Interest;** states the Assessor's office should not be under the presumption of correctness under Property Taxation Code, Section 107.7 (2), "the annual rent shall be a portion of that franchise fee" and suggests the Assessor's office is using it as a multiplier, therefore because they are not using a "portion" of that franchise fee, they shall have the benefit from any presumption of correctness.

**Ms. Sparks:** states she has received very little information from Charter and if they had provided her with the gross revenue information for each franchise area she would have used that information; states she has asked Charter for revenue history, gross revenue versus the franchise.

**Mr. Cash:** based on the information presented thus far, the Assessor's office has not supported the presumption of correctness and therefore should present their case first.

**Ms. Sparks:** presents **Assessor's Exhibit #1 - Appraisal;** discusses possessory interest; methodology of income stream; market rent of 10% applied to determine economic rent; discount rate; and when a franchise agreement expires how it continues; the Assessor used 15 years for the term of agreement on expired agreements and believes that is fair and reasonable.

**Mr. Corum:** this is a Proposition 8 appeal; the Applicant's opinion of value are the ones listed in the appraisal and not the values on the application; believes the Assessor is in violation of Property Tax Rule #21; the Assessor is basing appraisal on a 15 year agreement and they want 10 years used; addresses the appropriate economic rent with the Assessor saying 10% and the Applicant says 5%; and with respect to the cap rate the Assessor says 12% and the Applicant says 10%.

**Board Members:** discuss Rule #21; terms of contracts; ask Mr. Cash to prepare a letter to the State Board of Equalization regarding what contract term and economic rate should be used; asks the Applicant to agree to a waiver of time to allow time to get an opinion from State Board of Equalization.

**Thereafter, on motion of Mr. Weber, seconded by Mr. Baron and unanimously carried, the Board agrees to continue the meeting past 5:00 p.m..**

**Mr. Corum:** states he will check with the Applicant to see if they will agree to sign a Waiver of Time and will notify the Clerk by the end of the following week.

**Mr. Cash:** suggests continuing the hearing to July 19, 2004 and he will work on a draft letter to SBE and will provide a copy to the Applicant and Assessor by the end of May; they have until the middle of June to respond and then the letter will be presented to the Board for approval at their July 19 meeting.

**Thereafter, on motion of Mr. Baron, seconded by Mr. Weber and unanimously carried, Application Nos. 2002-60 and 2003-60, Charter Communications Properties, LLC, is continued to July 19, 2004.**

- (10) **This is the time set for Board members, Assessor and/or Staff to bring up items to be discussed at the next meeting.**

**Mr. Baron:** states that Mr. Kelly phoned him about his hearing and indicated he was going to file a complaint with the FPPC against him for not disqualifying himself from Mr. Kelly's appeal. No action taken.

On motion duly made and unanimously carried, the Assessment Appeals Board of the County of San Luis Obispo, State of California, does now adjourn.

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Chairperson

**ATTEST:**

**JULIE L. RODEWALD**, County Clerk-Recorder  
and Ex-Officio Clerk of the Assessment Appeals Board

By: Deputy Clerk-Recorder  
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